

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN**

CONVERGEN ENERGY WI LLC

Plaintiff,

-against-

L'ANSE WARDEN ELECTRIC COMPANY, LLC

Defendant.

Index No. 20-cv-00543

**ANSWER AND AFFIRMATIVE DEFENSES**

NOW COMES Defendant L'Anse Warden Electric Company, LLC ("L'Anse"), by counsel, Conway, Olejniczak & Jerry, S.C., and as and for its Answer and Affirmative Defenses to the Plaintiff Convergen Energy WI, LLC's ("CEW") Complaint, alleges as follows:

1. L'Anse denies the allegations in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24.

**AFFIRMATIVE DEFENSES**

2. L'Anse reserves the right to dismiss this action pending the outcome of the motion to transfer the action to the Southern District of New York ("Transfer Motion"), where the identical subject matter is before that court. *See* Dkt. 12. It would be a waste of the Court's and the parties' resources to brief a motion to dismiss prior to a decision on the Transfer Motion.

3. CEW fails to state a claim upon which relief can be granted.

4. The supply agreement is void because it is part of a fraudulent scheme and L'Anse has sued for its rescission on that basis in the Southern District of New York.

5. L'Anse is off setting payment for pellets against damages owed to it by CEW.

6. The Western District of Wisconsin is an inconvenient forum for this claim.
7. This action violates the doctrine of claim splitting.
8. L'Anse reserves the right to assert additional affirmative defenses if discovery occurs to the extent this action is not transferred, dismissed, consolidated, stayed, or withdrawn.

WHEREFORE, L'Anse requests that CEW's Complaint be dismissed and that L'Anse be awarded all costs and expenses of this action, including all attorneys' fees incurred in its defense.

Dated this 6th day of July, 2020.

LAW FIRM OF CONWAY OLEJNICZAK & JERRY, S.C.  
Attorneys for Defendants

By: s/George Burnett  
George Burnett (State Bar #1005964)

Post Office Address  
231 South Adams Street  
P.O. Box 23200  
Green Bay, WI 54305-3200  
920-437-0476